

Executive Summary – Enforcement Matter – Case No. 42960
Aqua Utilities, Inc.
RN101612406
Docket No. 2011-2118-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

MWD

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Willow Oaks wastewater treatment facility, located at 23427 Bettywood Lane, approximately 1,000 feet southeast of Kuykendahl Road crossing of Willow Creek and 800 feet east of Willow Creek, Tomball, Harris County

Type of Operation:

Wastewater treatment plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: March 23, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$6,300

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$6,300

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 42960
Aqua Utilities, Inc.
RN101612406
Docket No. 2011-2118-MWD-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: October 26, 2011
Date(s) of NOE(s): November 9, 2011

Violation Information

Failed to comply with permitted effluent limits for ammonia nitrogen, total suspended solids, dissolved oxygen, and total residual chlorine [Texas Pollutant Discharge Elimination System Permit No. WQ0013619001, Effluent Limitations and Monitoring Requirements Nos. 1, 2 and 6, 30 TEX. ADMIN. CODE § 305.125(1) and TEX. WATER CODE § 26.121(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By May 5, 2011, the Respondent repaired/replaced the blowers in the aeration basin and returned to compliance with permitted effluent limits.

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Jorge Ibarra, P.E., Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5890; Debra Barber, Enforcement Division, MC 219, (512) 239-0412
TCEQ SEP Coordinator: N/A
Respondent: Robert Laughman, President, Aqua Utilities, Inc., 762 West Lancaster Avenue, Bryn Mawr, Pennsylvania 19010
Nicholas Debenedictis, Director, Aqua Utilities, Inc., 762 West Lancaster Avenue, Bryn Mawr, Pennsylvania 19010
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	14-Nov-2011	Screening	14-Nov-2011	EPA Due	
	PCW	18-Nov-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	Aqua Utilities, Inc.				
Reg. Ent. Ref. No.	RN101612406				
Facility/Site Region	12-Houston		Major/Minor Source	Minor	

CASE INFORMATION

Enf./Case ID No.	42960	No. of Violations	1
Docket No.	2011-2118-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jorge Ibarra, P.E.
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$3,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 135.0% Enhancement **Subtotals 2, 3, & 7** \$4,050

Notes: Enhancement for two Agreed Orders containing denial of liability, three NOV's with same/similar violations, and 16 months of self-reported effluent violations.

Culpability No 0.0% Enhancement **Subtotal 4** \$0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** \$750

Economic Benefit 0.0% Enhancement* **Subtotal 6** \$0

Total EB Amounts \$204
Approx. Cost of Compliance \$6,051
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$6,300

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$6,300

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$6,300

DEFERRAL 0.0% Reduction **Adjustment** \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY \$6,300

Screening Date 14-Nov-2011

Docket No. 2011-2118-MWD-E

PCW

Respondent Aqua Utilities, Inc.

Policy Revision 2 (September 2002)

Case ID No. 42960

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101612406

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	19	95%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 135%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for two Agreed Orders containing denial of liability, three NOVs with same/similar violations, and 16 months of self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 135%

Screening Date 14-Nov-2011

Docket No. 2011-2118-MWD-E

PCW

Respondent Aqua Utilities, Inc.

Policy Revision 2 (September 2002)

Case ID No. 42960

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101612406

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 1

Rule Cite(s)

Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013619001, Effluent Limitations and Monitoring Requirements Nos. 1, 2 and 6, 30 Tex. Admin. Code § 305.125(1) and Tex. Water Code § 26.121(a)

Violation Description

Failed to comply with permitted effluent limits. See attached Effluent Limit Violation Table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate biochemical oxygen demand (5-day) and ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Dissolved oxygen, total suspended solids and chlorine residual values were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3

241 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,000

Three quarterly events are recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$750

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent achieved compliance by May 5, 2011 for this violation.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$204

Violation Final Penalty Total \$6,300

This violation Final Assessed Penalty (adjusted for limits) \$6,300

Economic Benefit Worksheet

Respondent Aqua Utilities, Inc.
Case ID No. 42960
Reg. Ent. Reference No. RN101612406
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$6,051	1-Sep-2010	5-May-2011	0.67	\$204	n/a	\$204

Notes for DELAYED costs

Actual cost to repair/replace the blowers in the aeration basin and return to compliance with permitted effluent limits. Date required is the first date of non-compliance; and the final date is the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$6,051

TOTAL

\$204

Effluent Limit Violation Table

Aqua Utilities, Inc.

RN101612406, Case No. 42960, TPDES Permit No. WQ0013619001

2011-2118-MWD-E

Jorge Ibarra, P.E.

Corresponds to Violation Number:

1

EFFLUENT PARAMETER**Permit Limit**

	NH3N Daily Average Concentration	NH3N Daily Average Loading	NH3N Single Grab	TSS Daily Average Concentration	DO Minimum	Cl Residual Maximum
<i>Month/Year</i>	3 mg/L	1 lb/d	15 mg/L	15 mg/L	4 mg/L	4 mg/L
September 2010	3.02	c	c	c	c	c
October 2010	c	c	c	c	c	5.47
November 2010	11.73	1.076	46.6	15.25	1.95	c
January 2011	c	c	19.9	c	c	c
April 2011	16.89	6.402	33.63	c	c	c

Name
milligram per liter - mg/L
Ammonia Nitrogen - NH3N
Dissolve Oxygen - DO
Total Suspended Solids - TSS
Chlorine - Cl
punds per day - lb/d
compliant - c

Compliance History

Customer/Respondent/Owner-Operator:	CN602787509 Aqua Utilities, Inc.	Classification: AVERAGE	Rating: 1.88
Regulated Entity:	RN101612406 WILLOW OAKS WASTEWATER TREATMENT FACILITY	Classification: AVERAGE	Site Rating: 2.58
ID Number(s):	WASTEWATER WASTEWATER WASTEWATER LICENSING	PERMIT EPA ID LICENSE	WQ0013619001 TX0083976 WQ0013619001
Location:	located at 23427 Bettywood Lane, approximately 1,000 feet southeast of Kuykendahl Road crossing of Willow Creek and 800 feet east of Willow Creek, in Tomball in Harris County, Texas		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	November 14, 2011		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	November 14, 2006 to November 14, 2011		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Jorge Ibarra, P.E.	Phone:	(817) 588-5890

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
- Effective Date: 09/21/2007 ADMINORDER 2007-0015-MWD-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limits PERMIT

Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

Effective Date: 03/19/2011 ADMINORDER 2010-1412-MWD-E

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121

Rqmt Prov: Effluent Limits PERMIT

Description: Failure to comply with permit effluent limits for chlorine and total suspended solids as documented by a TCEQ record review of self-reported data.
- B. Any criminal convictions of the state of Texas and the federal government.
- N/A
- C. Chronic excessive emissions events.
- N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- | | | |
|----|------------|----------|
| 1 | 12/29/2006 | (534638) |
| 2 | 01/16/2008 | (614464) |
| 3 | 02/15/2007 | (624276) |
| 4 | 03/19/2007 | (624277) |
| 5 | 04/24/2007 | (624278) |
| 6 | 05/16/2007 | (624279) |
| 7 | 06/18/2007 | (624280) |
| 8 | 07/20/2007 | (624281) |
| 9 | 08/20/2007 | (624282) |
| 10 | 09/13/2007 | (624283) |
| 11 | 10/16/2007 | (624284) |
| 12 | 11/20/2006 | (624285) |
| 13 | 11/19/2007 | (624286) |
| 14 | 12/20/2006 | (624287) |
| 15 | 12/17/2007 | (624288) |
| 16 | 01/19/2007 | (624289) |
| 17 | 01/17/2008 | (624290) |
| 18 | 07/28/2008 | (657322) |
| 19 | 02/18/2008 | (675247) |
| 20 | 03/18/2008 | (675248) |
| 21 | 04/18/2008 | (675249) |
| 22 | 06/06/2008 | (680173) |
| 23 | 05/19/2008 | (693561) |
| 24 | 06/16/2008 | (693562) |
| 25 | 07/17/2008 | (693563) |

26	08/18/2008	(714855)
27	09/29/2008	(714856)
28	10/20/2008	(714857)
29	11/17/2008	(730742)
30	01/14/2009	(730743)
31	02/20/2009	(753988)
32	03/18/2009	(753989)
33	04/15/2009	(753990)
34	12/18/2008	(753991)
35	10/12/2009	(765368)
36	05/14/2009	(771328)
37	06/12/2009	(771329)
38	01/11/2010	(787251)
39	04/05/2010	(813959)
40	07/22/2009	(813960)
41	09/01/2009	(813961)
42	09/18/2009	(813962)
43	10/16/2009	(813963)
44	11/18/2009	(813964)
45	12/21/2009	(813965)
46	01/18/2010	(813966)
47	08/06/2010	(841368)
48	12/03/2010	(870549)
49	06/10/2011	(923082)
50	11/09/2011	(963849)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	01/31/2007	(624276)	CN602787509	
Self Report?	YES		Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	03/31/2007	(624278)	CN602787509	
Self Report?	YES		Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	04/30/2007	(624279)	CN602787509	
Self Report?	YES		Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	06/30/2007	(624281)	CN602787509	
Self Report?	YES		Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	11/30/2007	(624288)	CN602787509	
Self Report?	YES		Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	01/16/2008	(614464)	CN602787509	
Self Report?	NO		Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Effluent Limitations and Monitoring PERMIT			
Description:	Failure to comply with permitted effluent limitations for carbonaceous biochemical oxygen demand (cBOD), total suspended solids (TSS) and ammonia nitrogen (NH3N).			
Date	04/30/2008	(693561)	CN602787509	
Self Report?	YES		Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	08/31/2008	(714856)	CN602787509	
Self Report?	YES		Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	08/31/2009	(813962)	CN602787509	
Self Report?	YES		Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			

Date	10/12/2009	(765368)	CN602787509	
Self Report?	NO		Classification	Minor
Citation:	30 TAC Chapter 317.4(d)(3)			
Description:	Failure to maintain an intruder resistant fence around the wastewater treatment plant.			
Self Report?	NO		Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(5) ELMR, No. 2 PERMIT			
Description:	Failure to maintain compliance with the permitted effluent limits for total chlorine residual.			
Date	10/31/2009	(813964)	CN602787509	
Self Report?	YES		Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	11/30/2009	(813965)	CN602787509	
Self Report?	YES		Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	01/31/2010	(813959)	CN602787509	
Self Report?	YES		Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	12/03/2010	(870549)	CN602787509	
Self Report?	NO		Classification	Minor
Citation:	30 TAC Chapter 317.3(e)(5)			
Description:	Failure to maintain the high-level alarm on the onsite lift station.			
Self Report?	NO		Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) TPDES Permit No. WQ00136190001 PERMIT			
Description:	Failure to properly operate and maintain the solids level in the wastewater treatment plant.			
Self Report?	NO		Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TPDES Permit No. WQ00136190001 PERMIT			
Description:	Failure to maintain compliance with permitted effluent limits for chlorine residual.			
Self Report?	NO		Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to ensure the flowmeter was accurately measuring the flow rate.			
Self Report?	NO		Classification	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.7(a) 30 TAC Chapter 319, SubChapter A 319.7(c)			
Description:	Failure to document the Quality Assurance/Quality Control (QA/QC) analysis for the total chlorine residual.			
Date	09/30/2010		CN602787509	
Self Report?	YES		Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	10/31/2010		CN602787509	
Self Report?	YES		Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	11/30/2010		CN602787509	
Self Report?	YES		Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	01/31/2011		CN602787509	
Self Report?	YES		Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	04/30/2011		CN602787509	
Self Report?	YES		Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			

- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A
- Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
AQUA UTILITIES, INC.
RN101612406

§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2011-2118-MWD-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Aqua Utilities, Inc. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment plant located at 23427 Bettywood Lane, approximately 1,000 feet southeast of Kuykendahl Road crossing of Willow Creek and 800 feet east of Willow Creek in Tomball, Harris County, Texas (the "Facility").

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During a record review on October 26, 2011, TCEQ staff documented that the Respondent did not comply with permitted effluent limits as shown in the table below:

EFFLUENT PARAMETER						
Permit Limit						
	NH ₃ N Daily Average Concentration	NH ₃ N Daily Average Loading	NH ₃ N Single Grab	TSS Daily Average Concentration	DO Minimum	Cl Residual Maximum
Month/Year	3 mg/L	1 lb/d	15 mg/L	15 mg/L	4 mg/L	4 mg/L
September 2010	3.02	c	c	c	c	c
October 2010	c	c	c	c	c	5.47
November 2010	11.73	1.076	46.6	15.25	1.95	c
January 2011	c	c	19.9	c	c	c
April 2011	16.89	6.402	33.63	c	c	c

Cl = chlorine residual lb/d = pounds per day mg/L = milligrams per liter c = compliant
DO = dissolved oxygen Cl = chlorine residual TSS = total suspended solids

4. The Respondent received notice of the violations on November 14, 2011.
5. The Executive Director recognizes that by May 5, 2011, the Respondent repaired/replaced the blowers in the aeration basin and returned to compliance with permitted effluent limits.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with permitted effluent limits, in violation of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013619001, Effluent Limitations and Monitoring Requirements Nos. 1, 2 and 6, 30 TEX. ADMIN. CODE § 305.125(1) and TEX. WATER CODE § 26.121(a).
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for

violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.

4. An administrative penalty in the amount of Six Thousand Three Hundred Dollars (\$6,300) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Six Thousand Three Hundred Dollar (\$6,300) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Six Thousand Three Hundred Dollars (\$6,300) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Aqua Utilities, Inc., Docket No. 2011-2118-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
4. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the

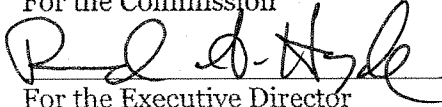
Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

6. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
7. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

4/20/12
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Aqua Utilities, Inc. I am authorized to agree to the attached Agreed Order on behalf of Aqua Utilities, Inc., and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Aqua Utilities, Inc. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.


I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

2-2-12
Date


ROBERT LAUGHMAN
Name (Printed or typed)
Authorized Representative of
Aqua Utilities, Inc.

PRESIDENT
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section III, Paragraph 1 of this Agreed Order.